

**DISTRICT OF COLUMBIA
DOH OFFICE OF ADJUDICATION AND HEARINGS**

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

MARY A. ROSEBY
Respondent

Case Nos.: I-00-20202
I-02-72012

FINAL ORDER

On June 21, 2002, I issued an order requiring the Government to file evidence negating Respondent's claim that she did not own the property at issue in this matter (3902 Kansas Avenue, N.W.) on February 7, 2002 and, therefore, is not liable for violating 21 DCMR 708.4 as alleged in the Notices of Infraction, or for any statutory penalty for failing to file a timely answer. The Government filed a timely response and does not contest Respondent's claim that she sold the property on January 18, 2002, and is not liable for the violation charged in the Notices of Infraction. Nor does it argue that Respondent should be liable for any statutory penalty. The Government requests, however, that the new owner of the property be substituted as the respondent and that it be permitted to serve the Notice of Infraction upon the new owner at the property address.

Rather than substituting the new owner into a pending case, without notice to him or his consent to that procedure, I will dismiss the case against Respondent, while permitting the Government to issue a new Notice of Infraction to the new owner. This will afford Respondent a final adjudication of the claim against her, as required by D.C. Official Code § 2-1802.02(c).

This result will not prejudice either the Government's right to pursue the person it now believes to be the proper party or the new owner's right to service of a Notice of Infraction containing the legally required instructions on how to answer and informing him of the statutory time limits for the filing of that answer. D.C. Official Code § 2-1802.01(b). *See DOH v. Federal National Mortgage Ass'n*, OAH No. I-00-20295 (Final Order, May 15, 2002) (Service of a new Notice of Infraction is necessary if service of a previous notice was defective.)

Accordingly, it is, this _____ day of _____, 2002:

ORDERED, that the Notices of Infraction against Respondent Mary A. Roseby are **DIMSISSED WITH PREJUDICE**; and it is further

ORDERED, that this Order is without prejudice to the Government's right to issue a new Notice of Infraction for the charges at issue in this case to Scott C. Redmond, whom the Government alleges was the owner of the premises at 3902 Kansas Avenue, N.W., on February 7, 2002.

FILED **07/30/02**

John P. Dean
Administrative Judge